

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Stanley R. Chesler  
 :  
 v. : Crim. No. 11-23 (SRC)  
 :  
 NELSON OTERO and :  
 MAXCIME CAGAN : O R D E R

This matter having come before the Court on the pretrial motions of Paul J. Fishman, United States Attorney for the District of New Jersey (Jacques S. Pierre and Lisa M. Colone, Assistant U.S. Attorneys, appearing), defendant Nelson Otero (Lorraine S. Gauli-Rufo and Peter Carter, Assistant Federal Public Defender, appearing) and defendant Maxcime Cagan (Thomas Ambrosio, Esq., appearing); and upon consideration of the parties' written submissions and arguments made at a hearing on February 14, 2012; and for good cause shown;

IT IS on this 22 day of February, 2012,

ORDERED that the defendants' motion to suppress the wiretaps (Docket Nos. 29, 30) is DENIED;

IT IS FURTHER ORDERED that the defendants' motion to exclude portions of the wiretaps (Docket Nos. 29, 30) is DENIED AS MOOT;

IT IS FURTHER ORDERED that the defendants' motion to exclude evidence of any uncharged robberies (Docket Nos. 29, 30) is DENIED AS MOOT at this time, based on the Government's representations that it does not presently intend to offer such

evidence; should the Government decide that it does intend to introduce such evidence, the defendants may renew this motion;

IT IS FURTHER ORDERED that the defendants' motion for a severance (Docket Nos. 29, 30) is WITHDRAWN by the defendants;

IT IS FURTHER ORDERED that the defendants' motion for a James hearing (Docket Nos. 29, 30) is WITHDRAWN by the defendants;

IT IS FURTHER ORDERED that the defendants' motion to exclude portions of defendant Cagan's post-arrest statement (Docket Nos. 29, 30) is DENIED AS MOOT;

IT IS FURTHER ORDERED that the defendants' motion for a Starks hearing (Docket Nos. 29, 30) is WITHDRAWN by the defendants;

IT IS FURTHER ORDERED that the defendants' various discovery motions (Docket Nos. 29, 30) are WITHDRAWN by the defendants;

IT IS FURTHER ORDERED that the Government's motion to admit evidence of certain of the defendants' prior convictions in the event they choose to testify (Docket No. 35) is GRANTED;

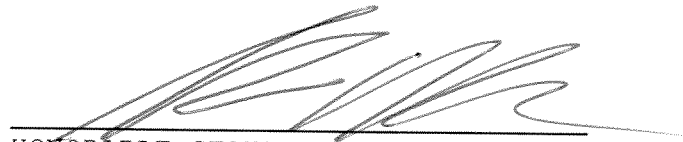
IT IS FURTHER ORDERED that the Court RESERVES decision on the Government's motion to preclude the defendants from arguing that defendant Otero was allegedly abused at the time of his arrest (Docket No. 35);

IT IS FURTHER ORDERED that the Government's motion that both defendants be restrained during trial (Docket No. 35) is GRANTED, based on the particularized findings made by the Court on the record at the hearing on February 14, 2012;

IT IS FURTHER ORDERED that the Court RESERVES decision on the Government's motion to permit business record certifications in lieu of record custodian testimony (Docket No. 35);

IT IS FURTHER ORDERED that, with respect to the defendants' motion to preclude the testimony of the Government's ballistics expert (Docket Nos. 40, 41), the Court shall hold a Daubert hearing on February 22, 2012, at 10:00 a.m.; and

IT IS FURTHER ORDERED that argument on various motions in limine filed by the Government and the defendants (Docket Nos. 49, 51) will be heard at a later date.



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HONORABLE STANLEY R. CHESLER  
United States District Judge